

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: May 25, 2023
Time: 10:00 a.m.

-----X
In re:

Chapter 13
Case No.: 23-40603-206

MALKY KATZ
aka Malky Schwimmer

Debtor(s)

NOTICE OF MOTION

-----X
SIRS / MADAMS:

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Jil Mazer-Marino, United States Bankruptcy Judge, on the 25th day of MAY at 2023, at 10:00am, the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§ 521 & 1307(c), dismissing this case by reason of the debtor(s)' failure to submit monthly pre-confirmation payments, failure to provide and/or file documents, failure to appear and/or be examined at §341 meeting of creditors, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE NOTICE, that the hearing shall not be held in person but shall be held telephonically or by video. Those intending to appear at the hearing must register with eCourt Appearances no later than two (2) days prior to the hearing. The phone number or video link for the hearing will be emailed to those that register with eCourt Appearances in advance of the hearing. Instructions for registering with eCourt Appearances can be found at <https://www.nyeb.uscourts.gov/node/2126>. If you do not have internet access or are otherwise unable to register with eCourt Appearances, you may call or email Judge Mazer-Marino's courtroom deputy for instructions at (347)394-1844, jmm_hearings@nyeb.uscourts.gov.

PLEASE TAKE NOTICE, that the hearing on the Motion may be adjourned without notice other than announcement in open Court.

PLEASE TAKE NOTICE, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Islandia, New York
April 20, 2023

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, NY 11749
(631) 549-7900

To: *Office of the United States Trustee*
MALKY KATZ, Debtor(s)
VINCENT CUOCCI, ESQ., Attorney for Debtor(s)
All Interested Parties and Creditors

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

tmm1634

In re:

Chapter 13

Case No.: 23-40603-206

MALKY KATZ

aka Malky Schwimmer

Debtor(s)

APPLICATION

-----X

TO THE HONORABLE JIL MAZER-MARINO, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on February 22, 2023, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.

2. As of the date of this motion, the debtor(s) has failed to submit any monthly pre-confirmation payments to the Trustee.

3. In addition, as of this date the debtor(s) has failed to file and/or provide sixty (60) days of paystubs; 2021 and 2022 state and federal tax returns; lease agreement or an affidavit from the tenant stating the dollar amount; and an affidavit of contribution with proof of income attached;

4. Furthermore, as of this date the debtor has failed to provide the Trustee with all filings required under Section 521; and all mandatory disclosure documentation as set forth in Local Bankruptcy Rule 2003-1.

5. Moreover, the debtor failed to appear and/or be examined at the initial §341 meeting of creditors, held on April 19, 2023 at 10:30ama.m.

6. This is a material default and is prejudicial to the rights of the creditors of the debtor.

WHEREFORE, the Trustee requests for an Order pursuant to the provisions of 11 U.S.C. §§ 521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York
April 20, 2023

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, NY 11749
(631) 549-7900

CERTIFICATE OF SERVICE

**BY MAIL AND ELECTRONIC
SERVICE**

This is to certify that I, Saniyyah S. Greene, have this day served a true, accurate and correct copy of the within ***Notice of Motion and Application***, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Malky Katz
150 South 8th Street
Brooklyn, NY 11211
Debtor(s)*

*US Bank
c/o Padgett Law Group
6267 Old Water Oak Road
Suite 203
Tallahassee, FL 32312
Creditor(s)*

and upon the following parties, by the e-mail address designated by said parties for that purpose;

*Office of the United States Trustee
U.S. Federal Office Building
USTP.Region02.BR.TFRTDR@usdoj.gov*

*Vincent Cuocci
honestlawyer@verizon.net
Attorney for Debtor(s)*

*Rushmore Loan Mgmt Svcs
c/o Friedman Vartolo LLP
Attn: Dinh Nguyen
dnguyen@ecf.courtdrive.com
Creditor(s)*

*Wells Fargo
c/o Aldridge Pite, LLP
Attn: Jenelle C. Arnold
Bkecfinbox@aldridgepite.com
Creditor(s)*

This April 20, 2023

/s/ **Saniyyah S. Greene**

Saniyyah S. Greene, Paralegal
Office of the Standing Chapter 13 Trustee
Michael J. Macco, Esq.
2950 Express Drive South, Suite 109
Islandia, NY 11749
631-549-7908